THE HYDERABAD HABITUAL OFFENDERS (RESTRICTION AND SETTLEMENT) ACT, 1954.

No. XXII OF 1954.

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SCHEDULE.

* THE HYDERABAD HABITUAL OFFENDERS (RESTRICTION AND SETTLEMENT) ACT, 1954.

No. XXII OF 1954.

An Act to make provision for restricting the movements of habitual offenders in the State of Hyderabad, for requiring them to report themselves and for placing them in settlements ;

Preamble.

Whereas it is expedient to make provision for restricting the movements of habitual offenders in the State of Hyderabad, for requiring them to report themselves and for placing them in settlements ;

It is hereby enacted as follows : —

Short title, extent and commencement.

1. (1) This Act may be called the Hyderabad Habitual Offenders (Restriction and Settlement) Act, 1954.

(2) It extends to the whole of the State of Hyderabad.

(3) It shall come into force on such date as the Government may, by notification in the official Gazette appoint in this behalf.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) " Code "means the Code of Criminal Procedure, 1898;

(*b*) "Habitual Offender " means a person, who during any continuous period of five years, whether before or after the commencement of this Act, has been sentenced to a substantive term of imprisonment, such sentence not having been set aside in appeal or rivision, on not less than three occasions for one or another of the offences under the Indian Penal Code, set forth in the schedule, each of the subsequent sentences having been passed in respect of an offence committed after the passing of the sentence on the previous occasion; and who, as a result of such convictions, has suffered imprisonment at least for a total period of 12 months:

Provided that in computing the period of five years, any period spent in jail either under a sentence of imprisonment or under detention, shall not be taken into account.

Explanation.—The passing of an order requiring a person to give security for good behaviour with reference to

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section 110 of the Code, shall be deemed to amount to the passing of a sentence of substantive term of imprisonment within the meaning of this clause;

(*c*) "Notified Offender" means a habitual offender in respect of whom a notification has been issued under section 24 and is in force.

(*d*) "Order of restriction" means an order made under this Act requiring a person other than a child as defined in the Hyderabad Children Act, 1951—

(*i*) to restrict his movements to any area within the State specified in the order, or

(*ii*) to report himself at the times and at the places and in the manner specified in the order, or

(*iii*) to do both;

(*e*) "Order of settlement" means an order made under this Act placing a person other than a child as defined in the Hyderabad Children Act, 1951, in a settlement established under this Act.

(*f*) "Prescribed" means prescribed by rules made under this Act.

(*g*) words and expressions used but not defined in this Act shall have the meanings assigned to them in the Code.

PART I

General provisions

Notice of order of restriction against habitual offenders.

3. (3) In any case in which a Magistrate may under the provisions of section 110 of the Code require a person to show cause why he should not be ordered to execute a bond for his good behaviour, the Magistrate may in lieu of or in addition to so doing, require such person to show cause why an order of restriction should not be made against him.

Joint proceedings and record.

(2) If the Magistrate, in addition to requiring such person to show cause why he should not be ordered to execute a bond for his good behaviour, requires him to show cause why an order of restriction should not be made against him, the proceedings in respect of the order of restriction may be taken jointly with the proceedings in respect of security and may be included in and form part of the same record.

Procedure in making order of restriction.

4. Whenever a Magistrate acting under section 3 deems it necessary to require a person to show cause why an order of restriction should not be made against him, he shall follow as nearly as may be, the procedure laid down in section 112, 113, 114, 115, and 117 of the Code for an order requiring security for good behaviour :

Provided that the order in writing referred to in section 112 of the Code shall, in addition to setting forth the substance of the information received, state the term not exceeding three years during which the order of restriction shall be in force although it need not state whether the order of restriction shall be an order requiring him to restrict his movements to any area or requiring him to report himself at any place or requiring him to do both.

Issue of warrants in lieu of or in addition to summons.

5. The provisions of section 90 of the Code shall be applicable in respect of any proceedings under this Act as if they were proceedings under the Code.

Discharge of person informed against.

6. If upon an enquiry made in accordance with the preceding sections, the Magistrate is of opinion that it is not necessary to make an order of restriction against the person in respect of whom the enquiry is made, he shall make an entry to that effect on the record, and if he does not order the execution of bond for good behaviour he shall, if such person is in custody for purposes of such enquiry only, release him or if such person is not in custody, discharge him.

Making of order of restriction.

7. If upon an enquiry as aforesaid, the person against whom such enquiry is made is found to be a habitual offender and the Magistrate is of the opinion that it is necessary to make an order of restriction against such person, the Magistrate shall make an order accordingly:

Provided that the Magistrate shall not make an order of restriction against any person against whom he makes an order under section 118 of the Code requiring such person to execute a bond for his good behaviour:

Provided further that no order of restriction shall be made for a term exceeding three years or for a term longer than that specified in the order referred to in the proviso to section 4.

Restriction order under section 123 (3) and 406 of the Code.

8. (1) A Court acting under sub-section (3) of section 123, or an Appellate Court acting under section 406 of the Code may if it finds that a person is a habitual offender, in lieu of the order requiring such person to give security under section 110 of the Code make an order of restriction for any period not exceeding that for which the security was required to be given.

Restriction order against convicted offender.

(2) In any case in which a Court or Magistrate is empowered to make an order against any convicted person under section 565 of the Code such Court or Magistrate, may, if it or he thinks fit, at the time of passing sentence on such person and in lieu of making an order as provided in the said section make an order of restriction against such person for a period not exceeding three years from the date of the expiration of such sentence.

(3) If such conviction is set aside on appeal or otherwise, the order restriction shall become void.

(4) No order of restriction shall be made against any person under this section unless he has been given an opportunity of showing cause why such order should not be made.

Particulars to be specified in restriction order.

9. Every order of restriction made under this Act shall state whether the person against whom the order is made is required to restrict his movements or is required to report himself or is required to do both. The order shall also specify the area and the nature of the restrictions imposed and the places, the times, and the manner of report, as the case may be. The order shall also contain such other particulars as may be prescribed.

Residence or means of livelihood within area of restriction.

10. (1) No order shall be made restricting the movements of any person to any particular area unless the Court or Magistrate making the order is satisfied that such person has adequate means of earning his livelihood within such area or ordinarily resides in such area.

(2) Before making an order restricting the movements of any person to any area the Court or Magistrate shall record and consider any objection which such person may urge in regard to the area to which his movements are proposed to be restricted.

Power to cancel or modify order of restriction.

11. (1) Where under an order of restriction made against him any person's movements have been restricted to

any area, the District Magistrate, may at any time, on his own motion or on an application of such person and for sufficient reasons to be recorded in writing, make an order cancelling or modifying the order of restriction.

(2) Such order of modification may provide —

(*a*) that the said person shall report himself at the times and at the places and in the manner specified in the order; or

(*b*) that he shall restrict his movements either to the area in which he ordinarily resides or to any other area in which the Magistrate is satisfied he has reasonable prospects of earning his livelihood.

(3) The Government may authorise any First Class Magistrate to make the order of modification referred to in sub-section (2) in respect of a person within his jurisdiction.

Power to substitute restriction order for bond for good behaviour or for order for notifying address.

12. Where an order requiring security for good behaviour has been made against any person under the Code and such person is found to be a habitual offender or an order has been made against any person under section 565 of the Code, whether before or after the coming into operation of this Act, the District Magistrate may, at any time, before the period of security or the term of the order under section 565, as the case may be, has expired make in lieu thereof an order of restriction:

Provided that—

(1) the period of the ordor of restriction shall not exceed the unexpired portion of the period of security or the term of the order under section 565; and

(2) no order of restriction shall be made against any person under this section unless he has been given an opportunity of showing cause why such order should not be made.

Appeal.

13. An appeal shall lie against an order of restriction under this part—

(*i*) to the District Magistrate if such order has been made by a Magistrate subordinate to him;

(*ii*) to the Court of Session if such order has been made by a District Magistrate;

(*iii*) to the High Court in any other case.

Code to apply to appeals.

14. Subject to the provisions of section 13 and sub-section (4) of section 24, the provisions of the Code shall apply to appeals under this Act.

Power to establish settlements and place habitual offenders therein.

15. (1) For the purposes of this Act, the Government may establish industrial, agricultural or reformatory settlements.

(2) The District Magistrate may, in lieu of an order of restriction made against any person under this Act, make an order directing such person to be placed in a settlement established under sub-section (1) for a period not exceeding the period for which the order of restriction has been made.

(3) the Government or any officer authorised by the Government may at any time, by general or special order direct any person who may be in any settlement,

(*a*) to be discharged, or

(*b*) to be transferred to some other settlement.

(4) Every person directed to be placed in a Settlement under this Act may be allowed.

(*a*) to live in the settlement with his wife and children,

(*b*) to continue to live in the settlement on expiry of the period for which he is directed to be placed in the settlement.

(5) Any person who resides in a settlement whether under an order of settlement or otherwise shall be subject to all or any such restrictions and penalties as may be prescribed.

Arrest of person contravening order of restriction or of settlement.

16. (1) Whoever being a person against whom an order of restriction or an order of settlement has been made—

(*a*) is found beyond the limits of the settlement or the area to which his movements have been restricted, without the prescribed pass, or in a place or at a time not permitted by the conditions of his pass, or

(*b*) escapes from a settlement, may be arrested without warrant by any police officer and may be taken before a Magistrate, who, on proof of the facts, shall order him to be removed to such area or to such settlement as the case may be, there to be dealt with in accordance with this Act or any rules made thereunder.

(2) The rules for the time being in force for the removal of prisoners shall apply to all persons removed under this section:

Provided that an order from the Government or from Inspector-General of Prisons shall not be necessary for the removal of such persons.

Duties of police patel and owners or occupiers of land and to give information in certain cases.

17. (1) Every police patel of a village in which any person against whom an order of restriction or order of settlement has been made, and every owner or occupier of land on which any such person resides, and the agent of any such owner or occupier, shall forthwith communicate to the officer-in-charge of the nearest police station any informntion which he may obtain of the departure of such person from such village or from such land, as the case may be.

(2) Every police patel of a village, and every owner or occupier of land and the agent of any such owner or occupier, shall forthwith communicate to the officer-in-charge of the nearest police station any information which he may obtain of the arrival at such village or on such land, as the case may be, of any person against whom an order of restriction or order of settlement is reasonably suspected of having been made.

Penalties for breach of rules.

18. (1) Whoever, being a person against whom an order of restriction or an order of settlement has been made, contravenes a rule made under clauses (*i*), (*ii*), (*iii*) and (*iv*) of sub-section of section 22 shall, on conviction, be punishable with imprisonment for a term which may extend,—

(*a*) on a first conviction, to one year,

(*b*) on a second conviction, to two years, and

(*c*) on any subsequent conviction, to three years, or with fine which may extend to five hundred rupees, or with both.

(2) Whoever, being a person against whom an order of restriction or an order of settlement has been made, contravenes any other rule made under section 22 or being a notified offender fails to comply with the provisions of section 25 and 26 shall be punishable—

(*a*) on a first conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both; and

(*b*) on any subsequent conviction, with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.

(3) In computing the period for which an order of restriction or of settlement shall remain in force, any period of imprisonment undergone in execution of a sentence passed under sub-section (1) or (2) shall be excluded.

(4) Any person who commits or is reasonably suspected of having committed an offence made punishable by this section which is not a cognizable offence as defined in the Code may be arrested without a warrant by any officer-in-charge of a police station or by any police officer not below the rank of a Sub-Inspector.

Enacted punishment for certain offences by persons to whom order against restriction or order of settlement has been made after previous conviction.

19. (1) Whoever, being a person against whom an order of restriction or an order of settlement has been made and having been convicted of any of the offences under the Indian Penal Code specified in the schedule, is convicted of the same or of any other offence specified in the schedule, shall on conviction, be punishable with transportation for life or with imprisonment of either description for a term which may extend to ten years.

(2) Nothing in this section shall affect the liability of such person to any further or other punishment to which he may be liable under the Indian Penal Code or any other law.

Punishment for persons against whom restriction order or settlement order has been made, found under suspicious circumstances.

20. Whoever, being a person against whom an order of restriction or an order of settlement has been made, is found in any place under such circumstances as to satisfy the Court that he was attempting to commit or abetting in the commission of, theft or robbery shall, on conviction, be punishable with imprisonment for a term which may extend to three years, and shall also be liable to fine which may extend to one thousand rupees.

Penalty for breach of duties by police patel, owners, or occupiers of land or their agents.

21. Any police patel, owner or occupier of land, or the agent of any such owner or occupier who intentionally fails to comply with the requirements of section 17, shall be deemed to have committed an offence punishable under the first part of section 176 of the Indian Penal Code.

Rules.

22. (1) The Government may, be notification in the official Gazette make rules for the purpose of carrying into effect the provisions of this Act which shall be laid before the Legislative Assembly.

(2) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for—

(*i*) the areas to which the movements of any preson may be restricted and the nature of the restrictions to be observed by such persons;

(*ii*) the times and places at which and the manner in which such persons shall report themselves;

(*iii*) the conditions as to holding passes under which such persons may be permitted to leave the area to which their movements have been restricted or the settlement in which they have been settled;

(*iv*) the conditions to be inserted in any such pass in regard to—

(*a*) the place to which the holder of the pass may or may not go;

(*b*) the persons before whom from time to time he shall be bound to present himself;

(*c*) the period during which he may be absent;

(*v*) any other particulars, deemed necessary to be included in an order of resiriction;

(*vi*) the circumstances in which persons against whom an order of restriction or an order of settlement has been made shall be required to possess and produce for inspection certificates of indentity and the manner in which such certificates shall be granted;

(*vii*) the management, control and supervision of industrial, agricultural or reformatory settlements;

(*viii*) the works on which, and the hours during which, persons placed in an industrial, agricultural or reformatory settlement shall be employed, the rate at which they shall be paid, and the disposal, for the benefit of such persons, of the surplus proceeds of their labour;

(*ix*) the discipline to which persons endeavouring to escape from any industrial, agricultural or reformatory settlement or otherwise offending against the rules for the time being in force, shall be subject and the periodical visitation of such settlement.

(*x*) the restriction to which persons residings in a settlement may be subjected to under sub-section (5) of section 15;

(*xi*) the inspection of residences of notified offenders;

(*xii*) the periodical review of cases of all persons who have been placed in a settlement;

(*xiii*) the terms upon which notfied offenders may be discharged from the operation of this Act;

(*xiv*) all matters required or allowed by this Act to be prescribed.

Savings.

23. Nothing in this Act shall affect the powers of any competent authority under any other law for the time being in force to make an order of restriction or detention and any order of restriction or of settlement passed under this Act in so far as it may conflict with may order made by a competent authority under such law shall be deemed to bo inoperative while the order under such law remains in force.

PART II

Special Provisios

Power to notify habitual offenders.

24. (1) The District Magistrate may by notification if he finds that any person ordinarily residing in his district is a habitual offender declare that such person shall be subject to the provisions of this Act, to such extent and subject to such restrictions, if any, as may be specified in the notification.

(2) Before any notification is issued in respect of any person under sub-section (1), reasonable opportunity shall be given to him to show cause against the issue of such notification.

(3) Before any notification is issued under sub-section (1) against any person, the District Magistrate shall satisfy himself as regards all the previous convictions of such person by taking evidence as provided by section 511 of the Code.

(4) Any person deeming himself aggrieved by an order of the District Magistrate under sub-section (1) may within thirty days from the date of such order, appeal therefrom to to the High Court.

Notified offenders to intimate residence and change of residence.

25. Every notified offender shall intimate to the District Magistrate or to such officer authorised by him, his place of residence, every change or intended change thereof and every absence or intended absence therefrom:

Provided that the Districts Magistrate or the offiner outhorised by him may exempt any such notified offender from reporting and temporary absence or intended absence from his residence, not exceeding such limit as may be prescribed.

Power to restrict movement of notified offenders.

26. (1) If in the opinion of the District Magistrate it is expedient to do so, he may by notsfication declare that any notified offender shall be restricted in his movement to a specified area.

(2) Before making any such declaration the District Magistrate shall considar—

(*i*) the nature of the offences, if any of, which the offender has been convicted and the circumstances in which they were committed;

(*ii*) whether the offender followed any lawful occupation and whether such occupation is a real one or merely a pretence for facilitating the commission of offences;

(*iii*) the suitability of the area to which his movements are to be restricted;

(*iv*) the manner in which it is proposed that he should earn his living in such area and the adequacy or any arrangement therefor.

Power to cancel or modify any declaration made under section 24 or 26.

27. The Government or any officer authorised by the Government may, by notification cancel any declaration made under section 26 into any other area:

Provided that before issuing any such notification or passing any such order, the Government or the officer shall consider the matters referred to in sub-section (2) of section26 in so far as they may be applicable.

Power to place notified offenders in settlement and to transfer or discharge them therefrom.

28. The Government or any officer authorised by the Government may at any time by order in writing direct —

(*i*) that any notified offender shall be placed in a settlement; or

(*ii*) that any notified offender who may be in a settlement be transferred to any other settlement or be discharged therefrom.

SCHEDULE

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